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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

IN RE META PIXEL TAX FILINGS CASES

Master File No. 5:22-cv-07557-PCP (VKD)

This document relates to:

**STIPULATED ADDENDUM TO ESI
PROTOCOL AND [PROPOSED]
ORDER**

All actions

Action Filed: December 1, 2022

1 Pursuant to Civil Local Rule 7-12, Plaintiffs and Defendant Meta Platforms, Inc. (together,
2 “the Parties”) by and through their respective counsel of record, respectfully submit this stipulated
3 addendum to the Stipulated Order re: Discovery of Electronically Stored Information (“ESI
4 Protocol”) (Dkt. 93) and [Proposed] Order.

5 WHEREAS, on May 25, 2023, the Court entered a Discovery Scheduling Order (Dkt. 83)
6 directing the Parties to meet and confer about “the form and content of their privilege logs
7 sufficiently in advance of the deadline for the exchange of first interim privilege logs so that any
8 disputes about the form and content of the log can be resolved before the deadline;”

9
10 WHEREAS, the Discovery Scheduling Order set deadlines for the Parties’ privilege logs as
11 follows based on the fact discovery cutoff date:

- 12 • Parties exchange first interim privilege logs: 90 days before second exchange
- 13 • Parties exchange second interim privilege logs: 60 days before final exchange
- 14 • Parties substantially complete document production: 90 days before fact discovery
- 15 cut off
- 16 • Parties exchange final privilege logs: 40 days before fact discovery cut off

17
18 WHEREAS, the Court has not yet set a deadline for fact discovery;

19
20 WHEREAS, on June 5, 2023, the Parties submitted the ESI Protocol for the Court’s approval
21 (Dkt. 92), which the Court entered on June 6, 2023 (Dkt. 93);

22
23 WHEREAS, the ESI Protocol requires the Parties to “discuss the format of privilege logs”
24 (*Id.* at 6);

25 WHEREAS, the ESI Protocol further requires the Parties to:

26 negotiate interim and final deadlines for the production of privilege logs
27 that permit any disputes about claims of privilege or work product
28 protection to be addressed in advance of the close of fact discovery. If the
parties are unable to agree on specific dates for interim and final deadlines

1 for the production of privilege logs, the Parties may ask the Court to resolve
2 the dispute.

3 (*Id.* at 6);

4 WHEREAS, the Parties have now agreed on the format and content of their privilege logs,
5 as well as amended deadlines for the production of interim and final privilege logs. Therefore, the
6 Parties now wish to submit a stipulated addendum to the ESI Protocol pursuant to Section 9 of the
7 ESI Protocol (*see id.* at 6);

8 NOW THEREFORE, IT IS HEREBY STIPULATED, subject to the Court's approval, that
9 the following provisions will be added to the ESI Protocol to govern the required form and content
10 of the Parties' privilege logs as well as the deadlines for production of the privilege logs. The Parties
11 incorporate by reference all terms as defined in the ESI Protocol.
12

13 **Section 8(d) Format and Contents of Privilege Log**

- 14
- 15 i. **General.** Subject to the limitations specified in Sections 8(a) and 8(b), documents that a
16 Party withholds, entirely or in part by redaction, on the basis of the attorney-client privilege,
17 the work product doctrine, or similar doctrines shall be logged on a privilege log on a
18 document-by-document basis.
- 19 ii. **Initial and Subsequent Privilege Logs.** The Parties will serve privilege logs consistent with
20 the schedule and provisions outlined in this Addendum. Each supplemental privilege log
21 will log all documents withheld (entirely or in part) from the serving party's document
22 productions completed more than 30 days before the privilege log deadline that have not
23 been included on any prior privilege log (so that each privilege log supplements all
24 previously served privilege logs but does not include entries from any previously served
25 log(s)).
26
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1 iii. **Contents of Privilege Log Entries.** Consistent with Federal Rule of Civil Procedure
2 26(b)(5), the following information should be provided (as applicable) in the privilege log
3 for each document: (1) Bates-number range, or if no Bates-number range, a unique document
4 identification number range, such that the Producing Party provides the number of pages in
5 the withheld or redacted document; (2) document type; (3) family relationship; (4) document
6 date; (5) all senders and recipients, including copyees and blind copyees, with attorneys and
7 their staff denoted by an asterisk (*) on the log; (6) all custodians known to have been
8 furnished the document; (7) privilege(s) or protection(s) claimed; and (8) description of the
9 withheld Document or electronically stored information that is sufficiently detailed and
10 informative to justify the privilege or protection claimed.
11

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13 iv. **Email Strings.** The Producing Party must separately log every email in a thread, where such
14 email is included within an email thread withheld in full based on a claim of privilege or
15 other protection. If the Producing Party is withholding any part of an email thread based on
16 a claim of privilege or other protection, that party must produce all parts of the thread that
17 are not privileged. For the avoidance of doubt, the Producing Party must individually and
18 separately log each email within an email thread only if it is fully withheld, and must
19 individually and separately log each document produced with redactions.
20

21 **Section 8(e) Deadlines to Serve Privilege Logs**

22 The Parties will serve initial privilege logs within 30 days of the Court's entry of this
23 Stipulated Addendum to ESI Protocol. The Parties will serve subsequent supplemental privilege
24 logs every 90 days thereafter. The Parties will exchange final privilege logs at least 40 days before
25 any fact discovery cutoff entered by the Court consistent with the Court's Discovery Scheduling
26 Order (Dkt. 83).
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1 The parties may serve privilege logs on a rolling basis in addition to those deadlines ordered
2 by the Court.

3 If a Party makes a supplemental document production from which documents are withheld
4 (entirely or in part) on the basis of the attorney-client privilege, the work product doctrine, or similar
5 doctrines after that Party has served its final privilege log, that Party will serve a supplemental
6 privilege log within 30 days of its supplemental production.
7

8 **Section 8(f) Challenges to Privilege Log Entries**

- 9 i. **Challenging a Privilege Log Entry.** If a Receiving Party believes that one or more items in
10 a Producing Party's privilege log should be produced, then the Receiving Party shall raise
11 the issue in writing as to each log entry or category of log entries with the Producing Party
12 with reasonably sufficient detail so that the Producing Party may understand the Receiving
13 Party's position.
14
- 15 ii. **Responding to a Challenge.** The Producing Party shall then respond to the challenge in
16 writing within 10 business days unless otherwise agreed by the Parties or ordered by the
17 Court, and must either state that the Producing Party will produce the document in full or
18 explain the grounds for disagreement with the challenge. If the Producing Party disagrees
19 with the challenge, it must explain the basis for its designation with reasonably sufficient
20 detail so that the Receiving Party understands its position.
21
- 22 iii. **Resolving Disputes.** If the Producing Party's written response does not satisfy the Receiving
23 Party, the Parties shall meet and confer within five business days after the Producing Party's
24 response to try to reach a mutually agreeable solution. If the Parties are unable to resolve
25 their disputes, the Parties must file a joint discovery dispute letter (using the joint letter
26 format and procedures specified in Section 4 of Judge Virginia K. DeMarchi's Standing
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Order for Civil Cases) within five court days of a meet and confer, unless the Parties mutually agree to a different schedule. If the challenge(s) involve multiple issues, the Parties will meet and confer to propose a reasonable briefing schedule.

Section 8(g) 502(d) Clawback Order

The Parties agree that this Addendum and the procedures set forth herein regarding challenging privilege assertions do not override the provisions of the 502(d) Clawback Order agreed to by the Parties and entered by the Court. *See* Dkt. 65.

Dated: May 6, 2025

By: /s/ Michael Liskow
Michael Liskow

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CIVIL L.R. 5-1(i)(3) ATTESTATION

Pursuant to Civil Local Rule 5-1(i)(3), I hereby attest under penalty of perjury that concurrence in the filing of this document has been obtained from all signatories.

Dated: May 6, 2025

By: /s/ Michael Liskow
Michael Liskow

[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: _____

Hon. P. Casey Pitts
U.S. District Judge